This Amendment is fully responsive to the non-final Office Action dated March 4, 2008, issued in connection with the above-identified application. Claims 1-35 are pending in the application. With this Amendment, claims 1-28 and 30-35 have been amended. No new matter has been introduced by the amendments made to the claims. Favorable reconsideration is respectfully requested.

In the Office Action, claims 8-10, 12 and 21-24 have been objected to for being dependent on a rejected base claim. However, the Examiner has indicated that the above claims would be allowable if rewritten in independent form to include all the limitations of their respective base claim and any intervening claims. Accordingly, the Applicants have rewritten claims 8, 12 and 21-24 in independent form as suggested by the Examiner. Additionally, claims 9 and 10 depend from claim 8 (now rewritten in independent form). Accordingly, withdrawal of the objection to claims 8-10, 12 and 21-24 is respectfully requested.

In the Office Action, claims 34 and 35 have been rejected under 35 U.S.C. 101 for allegedly being directed to non-statutory subject matter. Specifically, the Examiner alleged that claims 34 and 35 are directed to programs that do not fall within one of the four statutory categories. Accordingly, the Applicants have herein amended claims 34 and 35 to indicate that the programs are "stored on a computer-readable medium." Accordingly, withdrawal of the rejection to claims 34 and 35 under 35 U.S.C. 101 is respectfully requested.

In the Office Action, claims 1, 2, 13, 14, 25 and 28-35 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Jakuboski (U.S. Patent No. 7,054,443, hereafter "Jakuboski") in view of Chea et al. (U.S. Patent No. 7,076,432, hereafter "Chea").

The Applicants maintain that independent claims 1, 13, 25 and 28 and 30-35 include features that are not believed to be disclosed or suggested by the cited prior art. For example, independent claim 1 recites the following features (in relevant part) that are not disclosed or suggested by the cited prior art:

"[a] distribution system that distributes a program for decoding encoded audio data, comprising:…

an acquisition device which, being connected to said distribution server device via a network and loaded with said removable memory unit, acquires the program from said

distribution server device and stores the program in said removable memory unit; and

an audio reproduction device which, being loaded with said removable memory unit stores the program, decodes the encoded audio date using the program, and outputs sounds."

The above features of claim 1 are similarly recited in independent claims 13, 25, 28 and 30-35.

The present invention, as recited in independent claims 1, 13, 25, 28 and 30-35, provides the advantage that a user requires only a decode program, and executes the decode program in an audio reproduction device for decoding encoded audio data. Thus, encoded audio data can be effectively decoded without increasing cost because unnecessary programs are not required to be stored. These features of the present invention noted above are not believed to be disclosed or suggested by the cited prior art.

In the Office Action, the Examiner relied on Jakuboski in view of Chea for disclosing all the features noted above in independent claim 1, 13, 25, 28 and 30-35. Specifically, the Examiner relied on Jakuboski for disclosing all the features in claims 1, 13, 25, 28 and 30-35 except for the claimed audio reproduction device. However, the Examier relied on Chea for disclosing this feature.

Specifically, the Examiner relied on Jakuboski at column 3, lines 40-45 and column 4. However, Jakuboski at column 3, lines 40-45 and column 4 describes in detail Fig. 1. And, Fig. 1 of Jakuboski discloses a digital rights management (DRM) distribution architecture that produces and distributes digital goods in a fashion that renders the digital goods resistant to different forms of attack.

As described in Jakuboski, DRM distribution architecture 100 distributes digital goods (e.g., software, video, audio, etc.) after transferring the digital goods into a protected form. The digital goods in their protected form are distributed to a client 104 via a distribution channel 106. The client 104 has a secure processor 140, memory 142 (e.g., RAM, ROM, Flash, Hard Disk, CD-ROM, etc.), one or more input devices 144 (e.g., keyboard, joystick, voice recognition, etc.), and one or more output devices 146 (e.g., monitor, speakers, etc.). The client 104 runs an operating system 150 which is stored in the memory 142 and executed on the secure processer 140.

The operating system 150 includes an evaluator 152 that evaluates the protected digital

goods prior to their utilization to determine whether the protected digital goods have been tampered with or modified in any manner. The evaluator 152 is configured to analyze the various portions according to the different protection schemes originally used to encode the good to evaluate the authenticity of the digital good.

Thus, although Jakuboski discloses the receipt of software, the reference fails to disclose or suggest that the software is written into the memory 142. Accordingly, Jakuboski fails to disclose at least the features of the acquisition device and the audio reproduction device of claims 1, 13, 25, 28 and 30-35. In other words, Jakuboski fails to disclose or suggest the following features:

(1)   acquiring a program from a distribution server device and storing the program in a removable memory unit; and

(2)   decoding encoded audio data using the program.

Accordingly, the present invention (as recited in independent claims 1, 13, 25, 28 and 30-35,) is clearly distinguished over Jakuboski for at least the reasons noted above.

Moreover, Chea fails to overcome the deficiencies noted above in Jakuboski. Chea is directed to an apparatus and method for processing encoded data, wherein the digital audio data is encoded using different encoding formats. Specifically, Fig. 1 of Chea discloses a portable audio device 10 that includes a micro-controller 22 that controls various elements during the overall operation of the audio device 10. The micro-controller 22 includes a suitable amount of memory 23 that has various instructions sets, decryption programs, key files and a security code for controlling the operation of the audio device 10.

As described in Chea, audio data files and associated decoder files are loaded onto memory card 32 using a PC, or other similar device having music management software loaded thereon. Prior to the beginning of playback, the micro-controller 22 reads the memory card 32 to identify and display the audio data file stored on the memory card 32. The micro-controller 22 loads the selected audio data file and the appropriate decoder file into the RAM 11, wherein the DSP 12 decrypts both the data and the decoder files, and then decodes the selected audio data file using the decoder file.

However, similar to Jakuboski, Chea also fails to disclose at least the following features recited in independent claims 1, 13, 25, 28 and 30-35:

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(1)   acquiring a program from a distribution server device and storing a program in a removable memory unit; and

(2)   decoding the encoded audio data using the program.

For at least the reasons noted above, no combination of Jakuboski and Chea would result in, or otherwise render obvious, the features recited in independent claim 1, 2, 13, 25, 28 and 30-35. Likewise, no combination of Jakuboski and Chea would result in, or otherwise render obvious, the features of claims 2 and 14 by virtue of their dependency from independent claims 1 and 13 respectively.

Dependent claim 2 is also believed to be distinguishable over the cited prior art on its own merit. Dependent claim 2 recites that "said removable memory unit stores one or more programs which are each used for decoding encoded audio data of a different type, the audio reproduction device stores a detection module before hand, the detection module being a program module used for detecting a type of encoded audio data, and the audio reproduction device detects the type of encoded audio data using the detection module, reads the program for decoding encoded audio data of the detected type for the removable memory unit, and decodes the encoded audio data using the program."

In the Office Action, the Examiner relied on Chea for disclosing all the features recited in dependent claim 2. Specifically, the Examiner relied on column 4 of Chea. However, the Applicants maintain that Chea discloses that audio data files and associated decoder files are loaded onto memory card 32 using a PC or other similar device using music management software. As noted above, the audio data files and the decoder files are associated with each other before hand, and the music management software selects a decoder in accordance with this association. Therefore, Chea fails to disclose or suggest at least the claimed detection module of claim 2.

Specifically, as recited in claim 2, the detection module detects the decode program. Therefore, encoded audio data can be properly decoded regardless of which of the different compression-encode formats was used for generating the encoded audio data. No such feature is believed to be disclosed or suggested by Chea. Based on the foregoing, dependent claim 2 is also believed to be distinguished from the cited prior art based on its own merit.

In the Office Action, claims 3-7, 11, 15, 20, 26 and 27 have been rejected under 35

U.S.C. 103(a) as being unpatentable over Jakuboski in view of Chea, and further in view of Lipscomb (U.S. Patent No. 7.020,704, hereafter "Lipscomb").

With regard to independent claims 26 and 27, the Applicants maintain that the cited prior art fails to disclose or suggest the features recited in the claims. Specifically, independent claims 26 and 27 recite similar features of independent claims 1, 13, 25, 28 and 30-35. Accordingly, independent claims 26 and 27 are distinguished over Jakuboski and Chea for similar reasons noted above for independent claims 1, 13, 25, 28 and 30-35. Additionally, after a detailed review of Lipscomb, the reference fails to overcome the deficiencies noted above in Jakuboski and Chea. Thus, no combination of Jakuboski, Chea and Lipscomb would result in, or otherwise render obvious, the features of claims 26 and 27.

With regard to claims 3-7, 11 and 15-20, claims 3-7 and 11 depend from independent claim 1; and claims 15-20 depend from independent claim 13. As noted above, Jakuboski and Chea fail to disclose or suggest all the features recited in independent claims 1 and 13. Additionally, Lipscomb fails to overcome the deficiencies noted above in Jakuboski and Chea. Therefore, claims 3-7, 11, and 15-20 are believed to be distinguished over Jakuboski, Chea and Lipscomb by virtue of their dependency from independent claims 1 and 13 respectively. Accordingly, no combination of Jakuboski, Chea and Lipscomb result in, or otherwise render obvious, claims 3-7, 11 and 15-20.

In light of the above, the Applicants respectfully submit that all the pending claims are patentable over the prior art of record. The Applicants respectfully request that the Examiner withdraw the rejections presented in the Office Action dated March 4, 2008, and pass this application to issue.

The Examiner is invited to contact the undersigned attorney by telephone to resolve any remaining issues.

Respectfully submitted,

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